

## 2.4 NON-CONFORMING USES, STRUCTURES AND LOTS

- 2.4.1 The lawful use of any structure of land existing at the time of the enactment or subsequent amendment of this Ordinance may be continued although such structure or use does not conform with provisions of this Ordinance, subject to the following conditions and exceptions:
- 2.4.2 A lawful non-conforming use which has been abandoned or discontinued for a period of two years, shall not be re-established, and any future use shall conform with this Ordinance, except in the case of land used for agriculture, horticulture, or floriculture, where such non-conforming use shall have existed for a period of five consecutive years.
- 2.4.3 This Ordinance shall not prohibit the extension within applicable setback requirements, alteration, reconstruction or structural change of a pre-existing nonconforming use or structure so long as a Special Permit is issued by the Board of Appeals, after finding that such extension, alteration, reconstruction or structural change is not substantially more detrimental than the existing nonconforming use or structure to the neighborhood. The above requirement does not apply to such an extension, alteration, reconstruction or structural change to a single or two-family residential structure which does not increase the nonconforming nature of that structure. This section shall apply to billboards, signs and other advertising devices covered under Section 4.3 of this Ordinance.

(a) The following is an amendment to Section 2.4.3(a), adopted by City Council June 22, 1999, and is intended to identify the areas that were affected by the rezoning on March 9, April 27 and October 12, 1999, and were incorporated on the Official City of Gloucester Zoning Maps. To aid in identification of the rezoned areas, refer to zoning maps prior to March 1999, as well as the 1998 Metropolitan Area Planning Council's (MAPC) Buildout Analysis Map of Gloucester. For any single or two-family dwelling in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999 located in:

- 1) R-RA zoning district Northwest of the Goose Cove Watershed (enacted March 9, 1999);
- 2) R-RA zoning district South and West of Concord Street as referenced in Special Study District #6 (enacted March 9, 1999);
- 3) R-2A zoning district with boundaries as shown on the 1998 MAPC Buildout Analysis Map of Gloucester (enacted October 12, 1999);

any alteration, reconstruction, extension or structural changes thereto shall comply with the following setbacks: 30 foot front yard setback, 20 foot side yard setback, and 30 foot rear yard setback; also, for any building accessory thereto the minimum distance from the street shall be 30 feet and from the side and rear lot lines shall be 15 feet. (Amended 1/22/02)

(b) The following is an additional amendment to Section 2.4.3(a), adopted by City Council June 22, 1999, and is intended to identify the areas that were affected by the rezoning on March 9, April 27 and October 12, 1999, and were incorporated on the Official City of Gloucester Zoning

Maps. To aid in identification of the rezoned areas, refer to zoning maps prior to March 1999, as well as the 1998 Metropolitan Area Planning Council's (MAPC) Buildout Analysis Map of Gloucester. For any single or two-family dwelling in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999 located in:

- 1) R-2 zoning district along the corridor of Washington Street between Goose Cove and Folly Cove (enacted March 9, 1999);
- 2) R-2 zoning district along Concord and Atlantic Streets as referenced in Special Study District #5 (enacted March 9, 1999);
- 3) R-2 zoning district of Magnolia which is not within the Watershed (excluding Village, Neighborhood and Extensive Businesses) as referenced in Special Study District #8 (enacted March 9, 1999);
- 4) R-2 zoning district on either side of Little River (excluding Extensive Business zoning and Biskie Head Point) as referenced in Special Stud Districts # 3 & 4 (enacted April 27, 1999);
- 5) R-2A zoning district extending from the 1998 MAPC Buildout Analysis Map with its southerly boundary to Englewood Road, east to Magnolia Woods Park, and north along the northerly side of Western Avenue to near its intersection with Bond Street (enacted October 12, 1999);

any alteration, reconstruction, extension or structural changes thereto shall comply with the following setbacks: 20 foot front yard setback, 10 foot side yard setback, and 20 foot rear yard setback; also, for any building accessory thereto the minimum distance from the street shall be 20 feet and from the side and rear lot lines shall be 10 feet. (Adopted 1/22/02)

- 2.4.4 Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Ordinance, unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- 2.4.5 In the case of destruction or damage by fire or other catastrophe, a building or structure existing at the time of the adoption of this Ordinance may be rebuilt in substantially the form as it was at the time of the destruction or damage, or in any form if within applicable setback requirements and not larger than previously.
- 2.4.6 A mobile home legally located in any district, whether on temporary or permanent permit, but not in conformance with the requirements of this Ordinance, may be retained or replaced on the same site with a different mobile home, but may not be relocated to another lot except in conformity with the Ordinance.
- 2.4.7 The expansion or reconstruction of uses and structures related to agriculture, horticulture, floriculture and viticulture within applicable setback requirements shall not be prohibited nor shall a Special Permit be required, however, in districts not currently zoned for these uses, such expansion or reconstruction shall only take place on parcels which are more than five (5) acres in size.

- 2.4.8 Any increases in dimensional requirements contained in Section III, Dimensional Regulations, of this Ordinance shall be regulated in conformance with Section 6, Chapter 40A, M.G.L. and shall not apply to a lot for single or two-family residential use, which, at the time of recording or endorsement, was not held in common ownership with any adjoining land, conformed to the then existing dimensional requirements and has less than the present dimensional requirements, but at least five thousand (5,000) square feet in area and fifty (50) feet of frontage. Lots held in common ownership are regulated in conformance with Section 6, Chapter 40A, M.G.L.
- 2.4.9 If a definitive plan, or preliminary plan followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under Subdivision Control Law, and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance or amendment thereto, the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of such submission. If such plan, or amendment thereof, is finally approved and endorsed by the Planning Board, the provisions of this Ordinance shall not apply for a period of eight (8) years from the date of such endorsement of approval.

A plan submitted to the Planning Board for endorsement of approval not required under Subdivision control law (Form A), shall be governed as above, except that the provisions of this Ordinance shall not apply for a period of three (3) years from said endorsement.

If either a definitive plan or a Form A plan as described above, is disapproved and an appeal is taken under applicable provisions of the Subdivision Control Law, the period of applicability of this section shall be as required by Section 6, Chapter 40A, M.G.L.

## **SECTION III DIMENSIONAL REGULATIONS**

### **3.1 INTENSITY OF USE REGULATIONS**

- 3.1.1 All buildings hereafter erected in any district shall be located in a lot as defined in Section VI, such that all of the minimum requirements set forth in the following Intensity of Use Schedule are conformed with, except where specifically exempted by this Ordinance or by General Law.
- 3.1.2 Certain lots are exempt from the intensity and dimensional regulations contained in this section of this ordinance. These lots and their exemptions are defined in Section 6, Chapter 40A, M.G.L. (See Sections 2.4.8 and 2.4.9 of this Ordinance.)
- 3.1.3 No existing lot shall be changed in size or shape, nor shall any new lot be created, except through a public taking or as may be allowed for in Section 3.1.8 of this ordinance, so as to result in a violation of the requirements set forth in this section, unless granted a variance by the Board of Appeals.
- 3.1.4 No obstruction higher than 2 1/2 feet above the lowest elevation at the curb line shall be permitted on a corner lot within the area of a triangle formed by a line intersecting the street lines of intersecting streets 25 feet from the corner. For the purpose of this section, the work "obstruction" shall mean any shrub, tree, wall, fence, sign, temporary buildings, pile of material, terrace, or retaining wall, but shall not include permanent buildings or structures where permitted elsewhere in this Ordinance.
- 3.1.5 Except as provided in Section 3.4, the lot frontage requirements set forth in section 3.2 shall apply to that portion of each lot between the frontage street and the principal building, and shall be measured at the shortest distance between the side property lines of the lot. (Amended 4/20/93)
- 3.1.6 In addition to the dimensional requirements herein, structures must conform to the requirements regarding height, yards, and courts, as well as other requirements contained in the State Building Code, as most recently adopted and amended by the City of Gloucester. (B.O.C.A. Building Code, as adopted by the City of Gloucester.)
- 3.1.7 Projections of not more than three feet are permitted in required yard for architectural features of a building, such as unenclosed porches, stairs, chimneys, cornices, eaves or canopies, but not for bay windows.
- 3.1.8 A lot on which more than one building existed at the time of the adoption of Subdivision Regulations by the City of Gloucester (December 8, 1960) may be divided into parcels on each of which one such building remains. However, if one or more of such parcels does not comply with the requirements of this Ordinance such division shall require a Special Exception issued by the Board of Appeals. Said Special Exception, which shall not be unreasonably withheld, shall be granted upon a finding that such proposed division does not endanger public health and safety. For purposes of this section, the term "building" shall have the same meaning as the term has for purposes of MGL Chapter 41, Section 81L. (Amended 11/27/01)